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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2010-499**

11 **ERIKA DIANA FISKE**
12 **567 Ocean View Blvd.**
Pacific Grove, California 93950
13 **Registered Nurse License No. 674491**

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about February 24, 2006, the Board of Registered Nursing issued Registered
22 Nurse License Number 674491 to Erika Diana Fiske (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2644 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY/REGULATORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensed registered nurse.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)
(Bus. & Prof. Code §2761(a))

9. Respondent has subjected her license to disciplinary action for unprofessional conduct under Code section 2761(a), in that she was placed under citizens' arrest for willfully and unlawfully using force and violence upon three hospital personnel members at the main pavillion at Community Hospital of Monterey Peninsula. The circumstances are as follows:

10. On or about December 27, 2008, Monterey police officers were dispatched to Community Hospital of Monterey Peninsula to investigate a battery. Upon arrival, the officers approached Victim 1 and asked her what had happened. Victim 1, who is the charge nurse for the main pavillion, stated that during a conversation that she had with respondent regarding respondent's mother's medical condition, respondent became upset because she didn't feel that her mother was receiving the proper medical care. Victim 1 asked respondent to calm down otherwise she would have to call police. Respondent then demanded to see her mother's medical records. Victim 1 told respondent that she would need to go to the front counter to get a copy of the medical records. Again, respondent became angry and Victim 1 asked respondent to calm down. At that point, respondent, standing approximately an arm and a half length's away from Victim 1, took two steps toward Victim 1 and slapped her on the left side of her face.

11. After slapping Victim 1, two other nurses, Victims 2 and 3, grabbed respondent and restrained her on the ground. In the process of restraining respondent, both Victims 2 and 3 sustained visible injuries to their hands. The police officers arrested, transported, and booked respondent into Monterey County Jail on assault and battery charges (see below).

SECOND CAUSE FOR DISCIPLINE

(Conviction)
(Bus. & Prof. Code §2761(f))

12. Complainant realleges the allegations contained in paragraph 11 above, and incorporates them herein by reference as if fully set forth.

13. Respondent has subjected her license to disciplinary action under Code sections 490 and 2761(f) in that on or about February 4, 2009, in a criminal proceeding entitled *People of the State of California v. Erika Diana Fiske*, in the Monterey County Superior Court

Case No. CRMS273622A, respondent was found guilty of one (1) count of violating Penal Code section 415 (disturbing the peace), a misdemeanor. Respondent's sentence included attendance at one Anger Management class per month for 12 months.

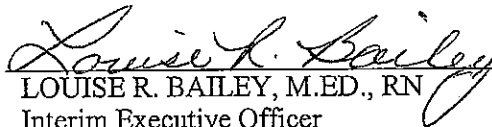
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 674491, issued to Erika Diana Fiske Erika Diana Fiske;
2. Ordering Erika Diana Fiske to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/13/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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